

**Effective 7/1/2016**

## **Part 1 General Provisions**

**Effective 7/1/2017**

### **78B-20-101 Title.**

This chapter is known as the "Uniform Deployed Parents Custody, Parent-Time, and Visitation Act."

Enacted by Chapter 292, 2016 General Session

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### **78B-20-102 Definitions.**

As used in this chapter:

- (1) "Adult" means an individual who has attained 18 years of age or is an emancipated minor.
- (2) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis.  
The term includes physical custody, parent-time, right to access, and visitation.
- (3) "Child" means:
  - (a) an unemancipated individual who has not attained 18 years of age; or
  - (b) an adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.
- (4) "Court" means a tribunal, including an administrative agency, authorized under the law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.
- (5) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parent-time, right to access, visitation, and authority to grant limited contact with a child.
- (6) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.
- (7) "Deploying parent" means a servicemember who is deployed or has been notified of impending deployment and is:
  - (a) a parent of a child under the law of this state other than this chapter; or
  - (b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.
- (8) "Deployment" means the movement or mobilization of a servicemember for more than 90 days but less than 18 months pursuant to uniformed service orders that:
  - (a) are designated as unaccompanied;
  - (b) do not authorize dependent travel; or
  - (c) otherwise do not permit the movement of family members to the location to which the servicemember is deployed.
- (9) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, or an individual recognized to be in a familial relationship with a child under the law of this state other than this chapter.
- (10) "Limited contact" means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

- (11) "Nonparent" means an individual other than a deploying parent or other parent.
- (12) "Other parent" means an individual who, in common with a deploying parent, is:
  - (a) a parent of a child under the law of this state other than this chapter; or
  - (b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.
- (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (14) "Return from deployment" means the conclusion of a servicemember's deployment as specified in uniformed service orders.
- (15) "Servicemember" means a member of a uniformed service.
- (16) "Sign" means, with present intent to authenticate or adopt a record:
  - (a) to execute or adopt a tangible symbol; or
  - (b) to attach to or logically associate with the record an electronic symbol, sound, or process.
- (17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (18) "Uniformed service" means:
  - (a) active and reserve components of the United States armed forces;
  - (b) the United States Merchant Marine;
  - (c) the commissioned corps of the United States Public Health Service;
  - (d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
  - (e) the national guard of a state.

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**78B-20-103 Remedies for noncompliance.**

In addition to other remedies under the law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

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**78B-20-104 Jurisdiction.**

- (1) A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.
- (2) If a court has issued a temporary order regarding custodial responsibility pursuant to Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, during the deployment.
- (3) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, the residence of the

deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

- (4) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.
- (5) This section does not prevent a court from exercising temporary emergency jurisdiction under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

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**78B-20-105 Notification required of deploying parent.**

- (1) Except as otherwise provided in Subsection (4) and subject to Subsection (3), a deploying parent shall in a record notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.
- (2) Except as otherwise provided in Subsection (4) and subject to Subsection (3), each parent shall in a record provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under Subsection (1).
- (3) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under Subsection (1), or notification of a plan for custodial responsibility during deployment under Subsection (2), may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.
- (4) Notification in a record under Subsection (1) or (2) is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.
- (5) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

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**78B-20-106 Duty to notify of change of address.**

- (1) Except as otherwise provided in Subsection (2), an individual to whom custodial responsibility has been granted during deployment pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, or Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide notice to any court that has issued a custody or child support order concerning the child, which is in effect.
- (2) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under Subsection (1) may be made only to the court that issued the order. The court shall keep confidential

the mailing address or residence of the individual to whom custodial responsibility has been granted.

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**78B-20-107 General consideration in custody proceeding of parent's military service.**

In a proceeding for custodial responsibility of a child of a servicemember, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

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